

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

JESUS GERARDO LEDEZMA-CEPEDA, et al

No. 4:14-CR-151-Y
[Filed Under Seal]

GOVERNMENT'S MOTION TO SUPPRESS TESTIMONY REGARDING
CONTROLLED SUBSTANCE IN VICTIM'S SYSTEM

The United States Attorney for the Northern District of Texas, files this Motion to Suppress to prevent the defendant from presenting evidence to the jury that at the time of the victim's murder, the victim had cocaine in his system, and would respectfully show the Court as follows:

The government anticipates that the defendant may attempt to introduce evidence, gleaned from the autopsy report of the victim, that at the time of his murder, the victim had cocaine in his system. Evidence of cocaine in Chapa's system should not be admissible during trial. Such evidence would be nothing more than an attempt to paint the victim as a bad person. However, without evidence showing how his use of cocaine was connected to his murder, such evidence fails to be admissible pursuant to F.R.E. 401 and F.R.E 403.

In *Cruz v. Jacques*, the court did not allow evidence of a victim's toxicology results to be presented to the jury. No. CV 09-8340-DOC RCF, 2012 WL 787604, at *11-12 (C.D. Cal. Feb. 10, 2012).

The defense wanted to use evidence of drugs in a victim's system to show his gang membership and behavior at the time of the shooting. *Id.* at 11. When determining cause of death, it was found that the drugs were not significant. *Id.* Further, it had little value to the jury's ability to determine whether the defendant was guilty of the crime charged. *Id.* at 12. It was determined that the evidence had little probative value, and it was found to be irrelevant. *Id.*

There is evidence that Chapa had cocaine in his system at the time of his death. There, however, is no direct link between the murder and the cocaine. Although the government expects that the defense will attempt to use the evidence to show Chapa's connection to drug cartels, similar to *Cruz*, the toxicology report has little probative value. Whether or not the victim had small amounts of drugs in his system does little to prove whether or not the defendants shot and killed Chapa. The victim was shot to death. His potential use of cocaine played no role in his death and should not be admitted.

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The court, therefore, should find Chapa's toxicology report to be inadmissible because the results are irrelevant.

Respectfully submitted,

JOHN R. PARKER
UNITED STATES ATTORNEY

s/ Joshua T. Burgess

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CERTIFICATE OF CONFERENCE

I hereby certify that on March 10, 2016, the undersigned conferred with: Steve Gordon, Warren St. John, Wes Ball and Robert Rogers, attorneys of records concerning the above motion, the grounds thereof and the relief sought. Steve Gordon, attorney for Ledezma-Campano (02) advised on behalf of his client that the request is unopposed. J Warren St. John and Wes Ball, attorneys for defendant Ledezma-Cepeda (01) and Robert Rogers, attorney for defendant Jose Cepeda-Cortes (03), advised on behalf of their clients that the request is opposed.

s/ Joshua T. Burgess

JOSHUA T. BURGESS
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2016, I electronically filed the foregoing document with the clerk for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who has consented in writing to accept this Notice as service of this document by electronic means.

s/ Joshua T. Burgess

JOSHUA T. BURGESS

Assistant United States Attorney